

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT, AT PALMER

NORMA MALEK,

Plaintiff,

vs.

BROWMAN DEVELOPMENT COMPANY, INC.,

Defendant.

Case No. 3PA-12-160 CI

COMPLAINT

COMES NOW the Plaintiff, by and through her counsel of record, Thomas E.

Williams, and for cause of action alleges and complains as follows:

1. Plaintiff is a resident of the Third Judicial District, State of Alaska, over the age of eighteen (18) years, and in all ways fully competent to bring and maintain this action.
2. At all times pertinent to this action, BROWMAN DEVELOPMENT COMPANY, INC. was an Alaskan business, in good standing, operating within the Third Judicial District, Wasilla, State of Alaska.
3. On or about January 11, 2011, at approximately 2:30 pm, Plaintiff was going to go shopping at the WALGREEN'S store located at 1721 East Parks Highway, Wasilla, Alaska 99654. BROWMAN DEVELOPMENT COMPANY, INC. leases the land and parking lot, at the Wasilla location, to WALGREENS.
4. Plaintiff was walking through the WALGREEN'S parking lot, owned by BROWMAN DEVELOPMENT COMPANY, INC., and in an effort to step

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around a tree; her left foot was lodged under a decorative rock with a hidden ledge, causing her to trip and fall, and to strike the left side of her chest and abdomen on the curb. The impact from the fall, crushed the area of her spine, containing the L4 and L5 vertebrae, the same area in which she had laminectomy surgery performed, in July of 2010.

5. Plaintiff was in excruciating pain and was unable to get up for several minutes. A gentleman, unknown name, helped her to get up off of the ground. Plaintiff filed an incident report with WALGREENS right away and then sought medical attention. NORMA MALEK'S neurosurgeon has advised her that she will need a second surgery to repair the damage to her spine, resulting from her fall in the parking lot.
6. As a result of the above-described incident, Plaintiff has experienced, and in the future will continue to experience, pain and suffering, as well as medical expenses for surgery, performed on her back, and therapy, in an amount not yet known to Plaintiff.
7. Plaintiff was exercising due care and caution, while slowly walking, and is free of any contributory negligence.
8. Defendant, BROWMAN DEVELOPMENT COMPANY, INC., as a landowner in Alaska, has "a duty to use due care to guard against unreasonable risks created by dangerous conditions existing on their property." *Burnett v. Covell*, 191 P.3d 985. 989(Alaska2008). As such, Defendant owes a duty of care, to the public and the Plaintiff, to maintain their property, including but not limited to: providing a parking lot for

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which people can walk, free of obstructions and hidden hazards, and has a duty to keep it free of any defects, that would pose a danger to the public utilizing their property.

9. Said Defendant breached that duty by failing to maintain the landscaping on their land in such a way as to guard against unreasonable risks. The hidden ledge underneath the decorative rock is a design defect in the landscaping. Defendant had time to observe and fix this defect in the time span of three (3) years since the lessee, WALGREENS, opened to the public, in June of 2009. This is something the Defendant knew or should have known was a potential risk, with the type of landscaping they chose to place in their parking lot. According to Wasilla, Alaska Code of Ordinances 16.33.060, "The owner of a lot shall maintain continuously all landscaping and natural vegetation on the lot..." Defendant was negligent when they continuously maintained their parking lot with dangerous conditions, and thereby causing Plaintiff's fall and her injuries.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For judgment in favor of Plaintiff and against Defendant as follows:
 - a) For special and compensatory damages in a sum in excess of ONE HUNDRED THOUSAND and 00/100 DOLLARS (\$100,000.00); and
 - b) For reimbursement of Plaintiffs' costs and reasonable attorney's fees incurred in the prosecution of this action, and

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2. For such other and further relief as the court deems just and equitable in the premises.

DATED this ^{5th} 21 day of May, 2012, at Eagle River, Alaska.

THOMAS E. WILLIAMS, Attorney
Counsel for Plaintiff

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